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Russian Land Code Amended to Define Terms of Land Withdrawal

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Agricultural Situation

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Report Highlights:

On June 7, 2013, the Russian President Vladimir Putin signed the Federal Law “On Amendments to the Land Code of the Russian Federation” (Federal Law No. 123-FZ of June 7, 2013) that sets the legal grounds for withdrawal of land from owner, user, and possessor in cases of improper utilization of this land and determines general procedures for this withdrawal either by court decision or by the decision of the federal or local authorities. The federal law covers all types of land, including agricultural land. The Federal Law No. 123 of June 7, 2013, was published on June 8, 2013 and comes to force in 90 days after its official publication.

General Information:

On June 7, 2013, the Russian President signed the Federal Law “On Amendments to the Land Code of the Russian Federation and Article 3 of the Federal Law “On Entry in Force of the Land Code of the Russian Federation” (Federal Law No. 123-FZ of June 7, 2013). The Federal Law No. 123 of June 7, 2013, was published on June 8, 2013, and will come to force in 90 days after its publication.

The information on the FL No.123 and the text of the FL is on the Kremlin web-site:

<http://news.kremlin.ru/acts/18291>. The text of the Federal Law in text format is here:

<http://text.document.kremlin.ru/SESSION/PILOT/main.htm>. The unofficial translation of the Federal Law No. 123 is in the Attachment 1 to this report.

Federal Law “On Amendments to the Land Code of the Russian Federation and Article 3 of the Federal Law “On Entry in Force of the Land Code of the Russian Federation” (Federal Law No. 123-FZ of June 7, 2013) regulates relations connected with the compulsory termination of land property rights, rights of (perpetual) use and rights of lifetime inheritable possession of land in case of improper utilization of land, in case of breach of owner/user responsibilities for land reclamation, soil conservation, or protection of the environment. The Federal Law sets the legal grounds and defines the procedure of forced termination of the right of permanent (perpetual) use and the right of lifetime inheritable possession of land, defines terms and procedure for withdrawal of land from owner, user, and possessor in cases of improper use of this land either by court decision or by the decision of the federal and local authorities. The Federal Law also establishes a special procedure for compulsory termination of the right of permanent (perpetual) use of land given to the state or municipal agencies and state-owned enterprises (with the exception of the state academies of science, and (or) their subordinate agencies).

The Federal Law No. 123 covers land of various use categories, including agricultural land, and could play a very important role in encouraging increased utilization of unused/underused agricultural land in the Russian Federation. According to the Ministry of Agriculture, as of today the area of agricultural land that is not used properly utilized is 37.4 million hectares, or 17 percent of all agricultural land of Russia [1] . Meanwhile, the Ministry of Agriculture of the Russian Federation has prepared amendments to Russian legislation that regulates terms of use of agricultural land, and proposes to significantly increase fines for the improper use of this land. These amendments have not been adopted yet.

^[1] Source: <http://agronews.ru/print.php?id=127599>

Attachment 1

Federal Law No. 123 of June 7, 2013 On Amendments to the Land Code of the Russian Federation

NONOFFICIAL TRANSLATION BEGINS

RUSSIAN FEDERATION

FEDERAL LAW

**On Amendments to the Land Code of the Russian Federation and Article 3 of the Federal Law
“On Entry in Force of the Land Code of the Russian Federation”**

Adopted by the State Duma on May 24, 2013

Approved by the Council of Federations on May 29, 2013

Article 1

To introduce to the Land Code of the Russian Federation (Legislation Bulletin of the Russian Federation, 2001, N 44, art. 4147; 2006, N 52, art. 5498; 2008, N 30, art. 3616; 2011, N 30 , art. 4590) the following amendments:

1) ARTICLE 45 TO READ AS FOLLOWING:

**“Grounds for termination of the right of permanent (perpetual) use of land plot,
the right of lifetime inheritable possession of land plot**

1. The right of permanent (perpetual) use of the land plot, the right of lifetime inheritable possession of land plot is terminated when the land-user, landowner refuses the rights of land ownership/possession on the terms and in the manner provided for in Article 53 of this Code.

2. The right of permanent (perpetual) use of the land, the right of lifetime inheritable possession of the land is forcibly terminated in cases of:

1) the improper use of the land, namely:

----- the land plot is used with the flagrant violation of the rules of rational use of land, including if the site is not used in accordance with its purpose or its use significantly reduces the fertility of agricultural land, or significantly deteriorates the ecological environment;

----- deterioration of land;

----- failure to comply with responsibilities for land re-cultivation, mandatory reclamation and soil conservation;

----- non-fulfillment of tasks of bringing land to a condition suitable for use;

----- non-use of land intended for farming or housing or other construction, for such purposes, within three years, unless a longer period is established by federal law. This period does not include the time necessary for the development of the site, as well as the time during which the land could be used for the intended purpose due to natural disasters or due to other circumstances precluding such use;

2) for withdrawal of land for public use in accordance with the rules provided for in Article 55 of this Code;

3) in other cases stipulated by federal laws.

3. Termination of the right of permanent (perpetual) use of the land plot, the right of lifetime inheritable possession of land plot on the grounds referred to in subsection 1, paragraph 2 of this Article shall be made in accordance with the rules provided for in Article 54 of this Code, except as required by federal law.”;

2) IN ARTICLE 46:

a) paragraph 2 of article 47 to read as following:

"2. Along with reasons mentioned above in paragraph 1 of this Article the lease of a land plot may be terminated by the landlord on the grounds provided for in paragraph 2 of Article 45 of this Code.”;

b) in paragraph 3, the words "in subparagraph 2 of paragraph 2 of this Article," substitute "in the second paragraph of paragraph 1, paragraph 2 of Article 45 of this Code";

3) ARTICLE 54 SHALL READ AS FOLLOWS:

“Procedure for withdrawal of land granted on terms of lifetime inheritable possession or permanent (perpetual) use due to improper use of the land

1. Forced termination of the right of lifetime inheritable possession of land and the right of permanent (perpetual) use the land on the grounds specified in subsection 1, paragraph 2 of Article 45 of this Code, is on the basis of the binding court decision on withdrawal of land (in case of failure to eliminate improper use of land after the assignment of an administrative penalty), except as provided in paragraph 2 of this Article.

2. Forced termination of the right of permanent (perpetual) use the land given to the state or municipal agency, State-owned Enterprise (with the exception of the state academies of science, and (or) their subordinate agencies), on the grounds referred to in subsection 1, paragraph 2 of Article 45 this Code, is by the decision of the executive body of the government or local authority as envisaged by Article 29 of this Code on withdrawal of land (in case of failure to eliminate improper use of land).

3. Procedure for adoption of the land withdrawal decisions by the executive state or local authority in accordance with paragraph 2 of this article shall be determined by the Government of the Russian Federation.

4. During the state surveillance of land, in case of finding violation of land legislation under subparagraph 1 of paragraph 2 of Article 45 of this Code the federal bodies of executive power authorized to exercise state supervision of land, give land users/landowners orders with deadlines to eliminate violations.

The form of order to eliminate violations is established by the federal executive body authorized by the Government of the Russian Federation.

5. In case of failure to eliminate violations, as prescribed in paragraph 4 of this article, on time the federal executive authority that issued such an order sends a copy of the report on the examination of the execution of this order by the landholder, landowner with a copy of the order and other related documents on the results of examination to the executive body of the state or local authority, under Article 29 of this Code.

6. The executive body of state or local authority, under Article 29 of this Code, after receiving the materials referred to in paragraph 5 of this Article, shall send to the court the requirement for land withdrawal or, in the case provided for by paragraph 2 of this Article, shall take a decision on withdrawal of land independently.

7. In case the right of lifetime inheritable possession of land, the right of permanent (perpetual) use of the land is recorded in the Unified State Register of Real Estate Property Rights and Transactions state or local executive authority under Article 29 of this Code shall apply to the body carrying out state registration of real estate rights and transactions with the request to register the termination of the land property/possession right on land attaching a copy of the decision on withdrawal of land or a copy of an enforceable court decision on withdrawal of land within ten days after the decision to withdraw the land or from the date of entry into force of the judicial act of withdrawal of land.

8. Executive body of state or local authority, under Article 29 of this Code, shall report on the termination of the right of lifetime inheritable possession of land, the right of permanent (perpetual) use of the land, which are not listed in the Unified State Register of Real Estate Property Rights and Transactions, to the tax authority at the location of said land and to the body responsible for cadastre and maintenance of the state cadastre of real estate within seven days from the date of the decision to withdraw the land or from the date of entry into force of the judicial act of withdrawal of land.

9. The decision of the executive body of the state or local authority, under Article 29 of this Code, about the withdrawal of land by improper use of land may be appealed in court";

4) ARTICLE 76, PARAGRAPH 4, ADD THE FOLLOWING LINES:

"4. Forced termination of land property rights does not relieve of the duty specified in this Article to compensate for the harm caused to land by violations."

Article 2

Article 3 of the Federal Law of October 25, 2001 N 137-FZ "On the Introduction of the Land Code of the Russian Federation" (Legislation Bulletin of the Russian Federation, 2001, N 44, art. 4148; 2003, N 28, art. 2875; N 50, art. 4846; 2004, N 41, art. 3993; 2005, N 1, Art. 17; N 25, art. 2425; 2006, N 1, Art. 3, 17; N 17, art. 1782; N 27, Art. 2881; N 52, art. 5498; 2007, N 7, Art. 834; N 31, art. 4009; N 43, art. 5084; N 46, art. 5553; N 48, art. 5812; 2008, N 30, art. 3597; 2009, N 19, art. 2281; N 29, art. 3582; N 52, art. 6418, 6427; 2011, N 1, Art. 47; N 13, art. 1688; N 30, Art. 4562; N 49, p. 7027; N 51, art. 7448, 2012, N 27, art. 3587; N 53, art. 7614, 7615) add by Clauses 23 - 25 as follows:

"23. Until the Government of the Russian Federation under paragraph 3 of Article 54 of the Land Code of the Russian Federation adopts the decision on withdrawing the land granted to state or municipal agency or a State-owned Enterprise (with the exception of the state academies of science, and (or) institutions created by such academies or acting within their jurisdiction) the decision on the land withdrawal in view of its improper use is received by the court.

24. Forced termination of the right of permanent (perpetual) use of land granted to the Federal State-owned Unitarian Enterprise, the Unitarian Enterprise of the subject of the Russian Federation or municipal-level Unitarian Enterprise prior to the enactment of the Land Code of the Russian Federation

(with the exception of those established by state academies of science, and (or) their subordinate state unitary enterprises) on the grounds specified in subparagraph 1 of paragraph 2 of Article 45 of the Land Code of the Russian Federation, is executed based on the rules set forth in Article 54 of the Land Code of the Russian Federation for the forced termination of the right of permanent (perpetual) use the land given to the state or local government agency or a State-owned Enterprise.

25. In case of absence of records of the right of lifetime inheritable possession of land, the right of permanent (perpetual) use the land in the Unified State Register of Real Estate Property Rights and Transactions that right ceases from the date of entry into force of the judicial act of withdrawal of the land or from the date of adoption of the decision, in accordance with paragraph 2 of Article 54 of the Land Code of the Russian Federation, of the executive body of the state or local authority to withdraw the land."

Article 3

This Federal Law shall enter into force ninety days after the date of its official publication.

President of the Russian Federation

V. Putin

The Kremlin, Moscow

June 7, 2013

No. 123-FZ